

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7754

BILL NUMBER: HB 1812

DATE PREPARED: Mar 4, 1999

BILL AMENDED: Mar 3, 1999

SUBJECT: Health Facility Revenues and Enforcement.

FISCAL ANALYST: Alan Gossard

PHONE NUMBER: 233-3546

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill allows an allegation of breach at a health facility to be made orally or in writing. The bill also requires the State Department of Health to investigate all oral allegations, not just oral allegations that the State Department considers to have merit. It also makes changes to the terminology and descriptions of the categories of a breach at a health facility and increases the penalties for a breach at a health facility. The State Department of Health is to impose the balance of fines or costs assessed against a health facility against the licensee of the health facility if the health facility is unable to pay. It also requires a health facility found to have committed a breach to comply with various notice requirements.

The bill also establishes the Interim Study Committee on Health Facilities to investigate staffing and training levels in nursing facilities, as well as possible alternatives for changing the method of investigation and resolution of complaints involving nursing facilities.

This bill also requires the State Department of Health (SDH) to contract with an independent organization to operate the informal dispute resolution process required by federal law. The bill specifies that the independent organization with which the State Department of Health contracts must employ or contract with an interdisciplinary team composed of persons with certain qualifications. The bill also requires the State Department of Health to assure that members of the interdisciplinary team are knowledgeable about health facility operations and receive training regarding federal survey and certification and state licensure requirements.

Effective Date: (Amended) Upon Passage; July 1, 1999.

Explanation of State Expenditures: (Revised) *Interim Study Committee on Health Facilities:* This bill establishes the 13-member Interim Study Committee on Health Facilities. Of the 13 members, four are legislators and eight are lay members. With legislator per diem at \$112, lay member per diem at \$50, plus

travel expenses, the estimated cost per meeting is about \$1,450, if all attend. By Legislative Council resolution, interim study committees are allocated \$9,000 per interim. Legislative Services Agency will staff the committee.

Informal Dispute Process: This bill requires the SDH to contract with an independent organization to operate the informal dispute resolution process currently required under federal law. The bill also specifies the qualifications of individuals that comprise the interdisciplinary team conducting the dispute resolution process. Based on the state of Michigan's experience in conducting an a similar program, the estimated additional state cost is estimated to be a minimum of \$90,000 and would likely be somewhat greater. Contracting with an independent organization will also free up two SDH employees currently performing this function.

In 1998, the Indiana SDH conducted the informal dispute resolution on 700 survey deficiencies with two SDH employees. Michigan, during the period of October through December of 1998, contracted with an independent organization at an average cost of about \$128 per case. Total additional state cost is, thus, estimated to be at least \$90,000. A change to an independent determination may have a tendency to increase the number of cases that go through this process and, consequently, increase the cost beyond the minimum of \$90,000.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Funds that, otherwise, would be reverted (\$1.4 million for SDH administration reverted in FY98); (2) New appropriations; or (3) Additional revenues from the change in the fine structure described below. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: (Revised) *Nursing Home Regulation and Enforcement:* This bill changes the sanction and fine structure for enforcement activities of the State Department of Health in the regulation of nursing facilities. Additional state fines collected by the State Department of Health are estimated to be at least \$160,000 to \$640,000 per year. This fine revenue is deposited into the state General Fund.

There were 81 facilities fined during CY97. Applying the new fine structure in this bill to the CY97 breaches and proposed fines results in estimated additional fine amounts of \$198,000 to \$800,000 for CY97. Not included in the estimate, above, the bill also provides for additional fines ranging from \$1,000 to \$10,000 per day until the breach is corrected. For those fines proposed and collected in CY97, about 80% of the amount proposed was eventually collected. If this collection rate continues, additional fine collections may total an estimated \$160,000 to \$640,000, not including the fines that may be imposed per day until the breach is corrected. This fine revenue is deposited into the state General Fund.

Additional sanctions are also authorized by this bill, including the placing of monitors in a health facility at the facility's expense.

After the State Department of Health inspects a facility and discovers breaches, the Department makes recommendations for sanctions to the federal government. If the federal government chooses to proceed and to levy and collect fines (historically, about half of the time, but more often recently), the fine revenue collected by the federal government is deposited into the Civil Monetary Penalty Fund and is to be used for the benefit of nursing facility residents in Indiana. However, if the federal government chooses not to proceed and the State Department of Health proceeds with the enforcement action, the fine revenue is deposited into the state General Fund.

[Note: The bill renames and redefines the various breaches. The Executive Board of the State Department of Health will further define each level of breach. The estimated impact, above, of the new fine structure assumes the new definitions will roughly correspond to the definitions applied in CY97 by the Department.]

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Department of Health; Office of Medicaid Policy and Planning; Legislative Services Agency.

Local Agencies Affected:

Information Sources: Gerald Coleman, State Department of Health, 233-7022. Dr. Gladys Thomas, Michigan Division of Health Facility Licensing and Certification, (517) 241-2637.